



WHITE BUFFALO LABORATORIES, LLC

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Dr. Jonathan O. Speare, Director

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November 14, 2021

Ms. Kristan Barbour, Department of Revenue
Mr. Todd Olson, Department of Revenue Director's Office
PO Box 7701
Helena, Montana 59604-7701

Re: MAR 42-1033 Moratorium for New Laboratory Licenses

Dear Ms. Barbour and Mr. Olson:

I read with concern a proposed rule in MAR 42-1033 whereby new applications for marijuana testing laboratories will be accepted as of January 1, 2022. One of the explicit intentions of HB701 is to maintain in-state employment and investment in this nascent and tax-driven industry in part by postponing acceptance of new dispensary licenses until July 1, 2023, but HB701 does not contemplate testing laboratory license application dates. While MAR 42-1033 currently authorizes acceptance of applications for new laboratory licenses as early as January 1, 2022, other testing lab owners and I believe this is an oversight in HB701 and MAR 42-1033 and not the intention of the bill. As it stands, MAR 42-1033 leaves existing Montana marijuana testing laboratories vulnerable to aggressive out-of-state interests that are not in the long-term interests of Montanans. In order to avoid this scenario, we request that acceptance of new applications for marijuana testing laboratories be changed to no sooner than July 1, 2023 in order to be consistent the concessions allowed other current licensees. Reasons for this request are:

1. White Buffalo Laboratories is currently not operating at full capacity and has room to take on up to 10 times more samples than our current volume. In addition, I have already invested in new equipment and personnel to be prepared for the anticipated expansion from adult use in support of our current customers. I believe that our preparations, in combination with preparations of other current licensed labs, will be sufficient to support Montana's expanding marijuana market and tax base.
2. To Reduce the Susceptibility to Monopolistic Investment: Similar to Montana provider apprehensions regarding the sustainability of their enterprises in the face of asymmetric out-of-state investment, my concern is that a new laboratory interest with substantial out-of-state funding could exercise predatory pricing that would force existing Montana laboratories out of the testing business. This would monopolize marijuana testing services, offering Montana providers little to no competitive price, service, and support protections. Resulting higher legal product costs would further embolden black market competition, thus reducing tax revenue.
3. To Maintain Support for the Montana Marijuana Program: White Buffalo Labs has delivered world-class technical analytical services to the MMJ Program since 2017, with some 8,500 samples tested to the highest standards of accuracy, quality, fast turnaround, and integrity. We service the entire state from our laboratory and offer no-additional cost pickup services to all providers regardless of location, whether they are a micro provider in Conrad or an industrial scale provider in Bozeman. We also pride ourselves on delivering these services at competitive and flat pricing (same pricing regardless of provider size), with modest profit margins well below that customary in other marijuana states. We have also spearheaded efforts to help providers maintain compliance through published guides and state-compliant labels, all supplied at no cost to the provider. We are concerned that this level of support for Montana's providers would not be maintained by out-of-state interests.

4. To Continue Benefits for All Montanans: Similar to many of Montana's marijuana dispensaries, since 2017 White Buffalo Laboratories prides itself on being a fully self-funded Montana service. We currently employ 6 Montanans with education ranging from high school to graduate degree scientists at sustainable compensation levels (starting wage \$18/h with benefits). We are also active members of our community. Out-of-state interests would not ensure that benefits of the program return to the citizens of Montana.

HB701 clearly lays out intent for providing some buffering for industry stability and protection by allowing only currently licensed cultivators, marijuana product manufacturers and dispensaries to be licensed with no new licenses accepted until July 1, 2023. This allowance provides a degree of protection for existing licenses. This same allowance should be granted to the current existing Montana owned and operated testing labs that have been serving the state and medical cannabis providers since 2017. To that point, I recommend New Rule VII MARIJUANA TESTING LABORATORY LICENSES (2) be changed as follows:

“(2) The department shall begin accepting applications for marijuana testing laboratories from applicants that are not former medical marijuana licensees as defined in 16-12-102, MCA, on July 1, 2023.”

Add “(3) A licensee may continue to operate under its existing license and may apply for a marijuana testing laboratory license at its next renewal date.”

Re-number sections (3) to (4), and (4) to (5)

Thank you for considering this change to MAR 42-1033. I look forward to your positive response to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jt Speare".

Jonathan Speare, Ph.D.
Director
White Buffalo Laboratories